



**TESTIMONY OF NTEU NATIONAL PRESIDENT
COLLEEN M. KELLEY**

ON

**ENSURING WE HAVE WELL-TRAINED BOOTS ON
THE GROUND AT THE BORDER**

BEFORE

**THE HOUSE HOMELAND SECURITY COMMITTEE
SUBCOMMITTEE ON MANAGEMENT, INTEGRATION
AND OVERSIGHT**

**311 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C.
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Chairman Carney, Ranking Member Rogers, I would like to thank the subcommittee for the opportunity to testify on training of frontline Customs and Border Protection Officers (CBPOs) at the Department of Homeland Security (DHS). As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 18,000 Customs and Border Protection Officers (CBPOs) and trade enforcement specialists who are stationed at 327 land, sea and air ports of entry (POEs) across the United States. CBPOs make up our nation's first line of defense in the wars on terrorism and drugs.

In addition, Customs and Border Protection (CBP) entry specialists and trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money. CBP is also a revenue collection agency, collecting an estimated \$31.4 billion in revenue on over 29 million trade entries in 2005.

ONE FACE AT THE BORDER INITIATIVE

As part of the establishment of U.S. Customs and Border Protection (CBP) in March 2003, DHS brought together employees from three departments of government--Treasury, Justice and Agriculture to operate at the 327 Ports of Entry (POEs).

On September 2, 2003, CBP announced the One Face at the Border initiative. The initiative was designed to eliminate the pre-9/11 separation of immigration, customs, and agriculture functions at US land, sea and air ports of entry. **Inside CBP, three different inspector occupations –Customs Inspector, Immigration Inspector and Agriculture Inspector duties and responsibilities were combined into a single inspectional position—the CBPO.**

The priority mission of the CBPO is to prevent terrorists and terrorist weapons from entering the U.S., while simultaneously facilitating legitimate trade and travel—as well as **upholding the laws and performing the traditional missions of the three legacy agencies, the U.S. Customs Service, the Immigration and Naturalization Service (INS) and the Animal, Plant and Health Inspection Service (APHIS).**

This change in job description and job duties established by the One Face at the Border initiative resulted in the Herculean task of training, retraining and cross training over 18,000 newly created CBPOs. The U.S. Border Patrol was spared this monumental training, retraining and cross training need because DHS transferred the U.S. Border Patrol Service as an intact unit within CBP and did not integrate the Border Patrol Agent position with the three inspectional positions working at the ports.

In practice, the major reorganization of the roles and responsibility of the inspectional workforce as a result of the One Face at the Border initiative has resulted in

job responsibility overload and dilution of the customs, immigration and agriculture inspection specialization and in weakening the quality of passenger and cargo inspections.

The processes, procedures and skills are very different at land, sea and air ports, as are the training and skill sets needed for passenger processing, cargo and agriculture inspection. Under One Face at the Border, former INS agents that are experts in identifying counterfeit foreign visas are now at seaports reviewing bills of lading from foreign container ships, while expert seaport Customs inspectors are now reviewing passports at airports.

It is apparent that CBP sees its One Face at the Border initiative as a means to “increase management flexibility” without increasing staffing levels. According to CBP, “there will be no extra cost to taxpayers. CBP plans to manage this initiative within existing resources. The ability to combine these three inspectional disciplines and to cross-train frontline officers will allow CBP to more easily handle projected workload increases and stay within present budgeted levels.”

This has not been the case. The knowledge and skills required to perform the expanded inspectional tasks under One Face at the Border have also increased the workload of the CBPO. Also lacking in the actual implementation of One Face at the Border is the ability to consistently practice in doing the job. Practice at doing a job is what makes a worker better at that job. A lawyer specializes in litigation, contracts, family law or one of many specialties. A doctor specializes in general medicine, surgery or one of many specialties. The CBPO has no opportunity to develop a specialty now.

The CBPO is a generalist and is rotated from seaport cargo inspection to land port vehicle processing to airport passenger processing. The CBPO must know the laws and duties of all of these specialized inspection processing systems. The CBPO is responsible for ensuring nothing and no one gets through the port that threatens the health, safety and security of the U.S. population, while at the same time facilitating legal trade and travel. It is a heavy load that has been demanded of these men and women.

Congress has some understanding that the security of the ports of entry is dependent on transforming specialized immigration, customs and agriculture inspectors into CBPO generalists under the One Face at the Border initiative. That is why Congress requested that the Government Accountability Office (GAO) evaluate the One Face at the Border initiative and its impact on legacy customs, immigration and agricultural inspection and workload. It is my understanding that GAO’s final report on the One Face at the Border initiative will be issued this fall. **NTEU strongly urges the Committee to hold hearings on the content and recommendations contained in the final GAO One Face at the Border report.**

Also, the Homeland Security Appropriations Committee added report language to the FY 2007 DHS Appropriations bill that, with regard to CBP’s One Face at the Border initiative, directs “CBP to ensure that all personnel assigned to primary and secondary inspection duties at ports of entry have received adequate training in all relevant

inspection function.” It is my understanding that CBP has not reported to DHS Appropriators pursuant to this language.

Training of New CBPOs:

With the implementation of the One Face at the Border initiative, the curriculum for new hires at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia has undergone major changes. Prior to the merger, INS trainees studied at FTETC for 65 days. Trainees from the former Customs Service had a 55-day course at FLETC. Unlike Customs and Immigration Inspectors who all attended basic Academy training at FLETC, Agriculture Inspectors have a different background; those Agriculture Inspectors who became CBPOs were required to complete the same basic training course as a new CBPO hire.

New CBPOs receive 73 days of FLETC training on all three types of inspection. “Upon returning to their assigned port, they will be trained for the next year by a combination of classroom, computer based, and OJT training.” The most critical part of this training is the year of on-the-job (OTJ) training to teach specialized information.

This OJT training phase is not being adequately done. Many new CBPOs report that few of them have received extensive post-academy training yet are assigned to the primary passenger processing line. Inadequate mentoring and OTJ training make it difficult for CBPOs to become proficient in even one job while they are expected to be proficient at three.

Cross-training of Legacy Inspectors:

The three disciplines’ skill sets—immigration, customs, and agriculture are highly specialized and require in-depth training and on-the-job experience. Agriculture specialists have a science background, immigration officers are trained to recognize suspect documents and customs officers are trained to identify counterfeit goods, drug smugglers and look for suspect passenger behavior at the airports and suspect product at the ports.

CBPOs that have been given cross-training have reported to NTEU that training is inadequate in time, resources and mentoring. According to CBP, all cross-training has been provided via video, CD-ROM/Web, classroom instruction, on the job training (OJT), or a combination of these methods. With limited exceptions, all of the training is provided at the CBPOs’ post-of-duty.

For legacy inspectors, the training both in class, computer based and on-the-job is totally inadequate. According to CBP, all legacy Customs and CBPOs had mandatory training on Immigration Fundamentals. “It will be delivered during Officers’ normal tour of duty in the form of eight electronic 45-minute lessons, after which the employee will be tested to ensure comprehension. A passing grade on the review is a prerequisite to taking the training for Full Unified Primary inspections.”

This is a typical story about this training from legacy inspectors:

“I took the immigration class in January of 2005 and have not been in a booth since. That is until I was told 3 weeks ago to go upstairs and get in the booth. I told the supervisor that I could not do it because I do not remember the training as it had been almost a year. She told me that she would put me with another inspector who would watch me for about 30 minutes and then I should be good to go on my own. After speaking with the experienced legacy INS inspector in the booth about how I was doing she changed her mind when he told her I was screwing up everything. CBP must **create a refresher class** for us or we will wind up screwing up and getting fired. I feel we are being fed to the lions.”

The Computer-based Training Process:

Almost all training outside of training received at FLETC and firearms recertification and safety training is computer based. Training is supposed to be completed by CBPOs using the Virtual Learning Center on the intranet, DVDs and videos. No time is specifically allotted for CBPOs to view the videos or sign on to the computer and complete the training. CBPOs are expected to squeeze this training in on their breaks, and in-between performing other administrative duties, or on their own time before or after work. If interrupted, some of these modules require them to start again at the beginning; others allow for picking up at the screen that they left off.

Upon completion of the training module, CBPOs are required to input completion data into the Training Record and Enrollment Network (TRAEN). This certificate states that the CBPO is fully trained on that topic. If any problem occurs or mistakes are made, supervisors pull out these training certificates and use them as a basis for discipline.

Some training modules refer to allotting time for a structured 10 to 15 minute discussion upon completion of the module. Rarely does this happen. There usually is no interaction with their supervisor on module content, nor are there any structured discussion or question and answer sessions following completion of the training video.

For example, on 2/25/2004, CBP notified NTEU that “CBP will be providing Bio/Agroterrorism training to all CBPOs and Agriculture Specialists. It will be delivered during employees’ normal tour of duty via a 20-minute video, with 10-15 minutes allotted for structured discussion.” I have heard that at most ports; the 10-15 minute structured discussion did not take place.

CBP Emphasis on Wait Times:

Currently, there are thousands of different documents that a traveler can present to CBPOs when attempting to enter the United States, creating a tremendous potential for fraud. Each day CBPOs inspect more than 1.1 million passengers and pedestrians, including many who reside in border communities who cross legally and contribute to the

economic prosperity of our country and our neighbors. At the U.S. land borders, approximately two percent of travelers crossing the border are responsible for nearly 48 percent of all cross-border trips.

In FY 2005, over 84,000 individuals were apprehended at the ports of entry trying to cross the border with fraudulent claims of citizenship or documents. On an average day, CBP intercepts more than 200 fraudulent documents, arrests over sixty people at ports of entry, and refuses entry to hundreds of non-citizens, a few dozen of which are criminal aliens that are attempting to enter the U.S.

CBPOs have "Twin Goals" in doing their job - Anti-Terrorism and Facilitating Legitimate Trade and Travel. CBP's priority mission is preventing terrorists and terrorist weapons from entering the United States, while also facilitating the flow of legitimate trade and travel. **CBP's emphasis on reducing wait times without increasing staffing at the ports of entry** creates a challenging work environment for the CBPO. On the one hand, CBPOs are to fully perform their inspection duties, yet at all times they are made aware by management of wait times. In land port booths, wait times are clearly displayed. At airports, all international arrivals are expected to be cleared within 45 minutes or a visual alert is displayed at headquarters and local management is notified. CBP's website posts wait times at every land port and allows travelers to check airport wait times by location.

Most travelers enter the U.S. through the nation's 166 land border ports of entry (POEs). About two-thirds involve aliens and about one-third involve returning U.S. citizens. The vast majority arrive by vehicle. The purpose of the primary inspection process is to determine if the person is a U.S. citizen or alien, and if alien, whether the alien is entitled to enter the U.S. In general, CBPOs are to question travelers about their nationality and purpose of their visit, whether they have anything to declare, and review any travel documents the traveler may be required to present.

At the land ports, primary inspections are expected to be conducted in less than one minute. Travelers routinely spend about 45 seconds at U.S.-Canadian crossings during which CBPOs have to assess oral claims of citizenship in the United States or Canada.

When CBPOs are viewing documents and questioning individuals for less than one minute, how much attention can realistically be put into examining the documents, verifying that the person presenting the document is the actual owner of the document, and determine that the vehicle may or may not be carrying drugs or other illegal items?

Each day, CBPOs at 327 crossings process 1.1 million inbound travelers, 327,500 private vehicles and 85,300 shipments of goods. Eight thousand forms of driver's licenses, birth certificates, baptism, or hospital records can be presented under existing rules. U.S. citizens are not required to show any documentation to enter the U.S. and need only make a declaration. If a person declares that they are a U.S. Citizen, CBPOs

are limited in what we can ask to determine if they are telling the truth. **Many complaints are lodged when CBPOs ask for documentation.**

At the airports, CBPOs are expected to clear international passengers within **45 minutes**. Prior to 9/11 there was a law on the books requiring INS to process incoming international passengers within 45 minutes. The Enhanced Border Security and Visa Protection Act of 2002 repealed the 45 minute standard, however "it added a provision specifying that staffing levels estimated by CBP in workforce models be based upon the goal of providing immigration services within 45 minutes. According to GAO, **"the number of CBP staff available to perform primary inspections is also a primary factor that affects wait times at airports."**

It has also come to NTEU's attention that the U.S. Travel and Tourism industry has called for a further reduction in passenger clearance time to **30 minutes**. The industry's recently announced plan, called "A Blueprint to Discover America," includes a provision for "modernizing and securing U.S. ports of entry by hiring customs and border [protection] officers at the top 12 entry ports to process inbound visitors through customs within 30 minutes." This **CANNOT** be achieved at current staffing levels without jeopardizing security.

The emphasis on passenger processing and reducing wait times results in limited staff available at secondary to perform those inspections referred to them. NTEU has noted the diminution of secondary inspection in favor of passenger facilitation at primary inspection since the creation of the Department of Homeland Security. Why has there been this decrease in secondary inspections? NTEU believes that it is because of the large number of CBPO job vacancies and static overall CBPO staffing levels.

Staffing Shortages at the Ports of Entry:

The President's FY 2008 budget proposal requests \$647.8 million to fund the hiring of 3000 Border Patrol agents. But, for salaries and expenses for Border Security, Inspection and Trade Facilitation at the 327 POEs, the President's funding request is woefully inadequate.

The President's FY 2008 budget calls for an increase of only \$8.24 million, for annualization of 450 CBPOs appropriated in the FY 2007 DHS Appropriations bill. NTEU is extremely grateful that Congress included funding for an additional 450 CBPOs in the FY 2007 DHS Appropriations bill.

In addition, the Emergency Supplemental Appropriations bill for fiscal year ending September 30, 2007, recently signed into law, "recommends an additional \$100,000,000 to improve significantly the ability of CBP to target and analyze US-bound cargo containers, achieve a capacity to screen 100 percent of such cargo overseas, and double the number of containers that are subject to physical inspections. The funding would support hiring up to 1,000 additional CBP Officers, Intelligence Analysts and

support staff, to be located at Container Security Initiative locations overseas, U.S. ports of entry, or the National Targeting Center.”

In addition, the SAFE Port Act authorizes CBP to hire a minimum of 200 additional CBP Officers in FY 2008 for ports of entry around the nation and the House Appropriations Committee funded 450 additional CBPO positions in the DHS FY 2008 funding bill.

There is concern among CBPOs, however, that in terms of real numbers CBP has hired more new managers than frontline workers. According to GAO, the number of CBPOs has increased from 18,001 in October 2003 to 18,382 in February 2006, an increase of 381 officers. **In contrast, GS 12-15 CBP supervisors on board as of October 2003 were 2,262 and in February 2006 there were 2,731, an increase of 462 managers over the same of time. This is a 17 % increase in CBP managers and only a 2% increase in the number of frontline CBPOs.** (See attachment 1)

There is also much concern that because of CBPO job vacancies, today the number of CBPOs on board and working at the POEs is less than the 18,001 CBPOs on board in October 2003.

According to the Government Accountability Office (GAO) Report (GAO-05-663), International Air Passengers Staffing Model for Airport Inspections Personnel Can Be Improved, there is much evidence that airports are continuing to experience staffing shortages. Also, some land ports are experiencing staffing shortages that have resulted in compelled overtime.

In order to assess CBPO staffing needs, Congress, in its FY 07 DHS appropriations conference report, directed CBP to submit by January 23, 2007 a resource allocation model for current and future year staffing requirements. Specifically, this report should assess optimal staffing levels at all land, air and sea ports of entry and provide a complete explanation of CBP’s methodology for aligning staffing levels to threats, vulnerabilities, and workload across all mission areas.” It is NTEU’s understanding that, to date, the Appropriations Committee has not received this report from CBP.

Congress also mandated CBP to perform a Resource Allocation Model in Section 402 of the SAFE Port Act. The CBP Resource Allocation Model (RAM) is due this month, June 2007. NTEU urges Committee hearings to review the findings of the CBP RAM.

It is instructive here to note that the former U.S. Customs Service’s last internal review of staffing for Fiscal Years 2000-2002 dated February 25, 2000 also known as the 2000-2002 RAM, shows that the Customs Service needed over 14,776 new hires just to fulfill its basic mission—and that was before September 11. Since then the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Naturalization Service and parts of the Agriculture Plant Health Inspection Service to create Customs and Border Protection and given an

expanded mission of providing the first line of defense against terrorism, in addition to making sure trade laws are enforced and trade revenue collected.

RECRUITMENT AND RETENTION ISSUES

In February of this year, DHS received the lowest scores of any federal agency on a survey for job satisfaction, leadership and workplace performance. Of the 36 agencies surveyed, DHS ranked 36th on job satisfaction, 35th on leadership and knowledge management, 36th on results-oriented performance culture, and 33rd on talent management. As I have stated previously widespread dissatisfaction with DHS management and leadership creates a morale problem that affects recruitment and retention and the ability of the agency to accomplish its mission.

In 2004, an OPM survey of federal employees revealed that employees rated DHS 29th out of 30 agencies considered as a good place to work. On key areas covered by the survey, employees' attitudes in most categories were less positive and more negative than those registered by employees in other federal agencies. Employee answers on specific questions revealed that 44% of DHS employees believe their supervisors are doing a fair to a very poor job; less than 20% believe that personnel decisions are based on merit; only 28% are satisfied with the practices and policies of senior leaders; 29% believe grievances are resolved fairly; 27% would not recommend DHS as a place to work; 62% believe DHS is an average or below average place to work; only 33% believe that arbitrary action, favoritism, and partisan political action are not tolerated; over 40% are not satisfied with their involvement in decisions that affect their work; 52% do not feel that promotions are based on merit; and over 50% believe their leaders do not generate high levels of motivation and commitment. On the other hand, most employees feel there is a sense of cooperation among their coworkers to get the job done.

The 2006 Federal Human Capital Survey ratings were released in January 2007 and not much has changed. Nearly 10,400 Homeland Security employees participated in the survey and gave the department rock-bottom scores in key job satisfaction, leadership and management areas in relation to 35 other agencies in the survey. Of the 36 agencies surveyed, DHS ranked 36th on job satisfaction, 35th on leadership and knowledge management, 36th on results-oriented performance culture, and 33rd on talent management.

According to OPM, 44 percent of all federal workers and 42 percent of non-supervisory workers will become eligible to retire within the next five years. If the agency's goal is to build a workforce that feels both valued and respected, the results from the OPM survey raises serious questions about the department's ability to recruit and retain the top notch personnel necessary to accomplish the critical missions that keep our country safe.

DHS Human Resources System:

NTEU continues to have concerns about funding priorities at DHS. On March 7, 2007, DHS announced that it will put into effect portions of its compromised personnel

system. Just a few weeks earlier, DHS outlined plans to move slower on its controversial personnel overhaul, formerly known as MaxHR, but now called the Human Capital Operations Plan. The President's FY 2008 budget calls for only \$15 million to fund the renamed MaxHR personnel plan.

In July 2005, a U.S. District Court for the District of Columbia ruled that portions of the proposed DHS personnel regulations infringed on employees' collective bargaining rights, failed to provide an independent third-party review of labor-management disputes and lacked a fair process to resolve appeals of adverse management actions. The Appellate Court rejected DHS appeal of this District Court decision and DHS declined to appeal the ruling to the Supreme Court.

In a number of critical ways, the personnel system established by the Homeland Security Act and the subsequent regulations issued by the Department of Homeland Security (DHS) have been a litany of failure because the law and the regulations effectively gut employee due process rights and put in serious jeopardy the agency's ability to recruit and retain a workforce capable of accomplishing its critical missions.

When Congress passed the Homeland Security Act in 2002 (HSA), it granted the new department very broad discretion to create new personnel rules. It basically said that DHS could come up with new systems as long as employees were treated fairly and continued to be able to organize and bargain collectively. The regulations DHS came up with were subsequently found by the Courts to not even comply with these two very minimal and basic requirements.

With the abysmal morale and extensive recruitment and retention challenges at DHS, implementing these personnel changes now will only further undermine the agency's employees and mission. From the beginning of discussions over personnel regulations with DHS more than four years ago, it was clear that the only system that would work in this agency is one that is fair, credible and transparent. These regulations promulgated under the statute fail miserably to provide any of those critical elements. It is time to end this flawed personnel experiment.

It has become clear to the Committee that the Department of Homeland Security has learned little from these Court losses and repeated survey results and will continue to overreach in its attempts to implement the personnel provisions included in the Homeland Security Act of 2002. On May 11, 2007, the full House approved H.R.1648, the FY 2008 DHS Authorization bill that includes a provision that repeals the DHS Human Resources Management System. This past Friday, June 15, 2007 the full House approved H.R. 2638, the fiscal 2008 DHS Appropriations bill that zeros out all funding for MaxHR. Senate action on both these measures is pending.

DHS employees deserve more resources, training and technology to perform their jobs better and more efficiently. DHS employees also deserve personnel policies that are fair. The DHS personnel system has failed utterly and should be repealed by the full

Congress. Continuing widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

Law Enforcement Officer Status:

The most significant impediment to recruitment and retention of CBPOs is the lack of law enforcement officer (LEO) status. LEO recognition is of vital importance to CBPOs. CBPOs perform work every day that is as demanding and dangerous as any member of the federal law enforcement community, yet they have long been denied LEO status.

Within the CBP there are two classes of federal employees, those with law enforcement officer status, Border Patrol Agents, and those without. Unfortunately, CBPOs fall into the latter class and are denied benefits given to other federal employees in CBP.

CBPOs carry weapons, and at least three times a year, they must qualify and maintain proficiency on a firearm range. This tri-annual firearms training and recertification also includes classes in arrest techniques and self defense tactics training, and defensive and restraint techniques. CBPOs are issued weapons (24-hour carry), body armor, pepper spray and batons. For the most part, CBPOs believe that firearms' training is adequate. When CBP changed the make of firearms from one manufacturer to another, at the CBPOs request, NTEU protested that the four hour training session on the new weapon was not adequate. CBP addressed NTEU's members concerns by expanding training on the new firearm to eight hours.

CBPOs have the authority to apprehend and detain those engaged in smuggling drugs and violating other civil and criminal laws. They have search and seizure authority, as well as the authority to enforce warrants. All of which are standard tests of law enforcement officer status.

Every day, CBPOs stand on the front lines in the war to stop the flow of drugs, pornography and illegal contraband into the United States. It was a legacy Customs Inspector who apprehended a terrorist trying to cross the border into Washington State with the intent to blow up Los Angeles International Airport in December 1999. Every day, CBPOs detain criminals attempting to enter or leave the country through the ports.

For example, on June 5th, the **El Paso Times** reported that "Customs and Border Protection officers stopped a Kansas man wanted for murder and rape Friday afternoon at the Zaragoza Bridge, agency officials said.

Anthony Javier Llamas, 21, was crossing the bridge in a 2000 Mercury Cougar with three other occupants when an officer checked for warrants and discovered an "armed and dangerous" alert for Llamas.

Llamas is wanted in Kansas in connection with a May 15 killing in Wichita and on an unrelated rape charge, officials said."

CBPOs clearly deserve LEO status. For this reason, legislation has been introduced to amend the definition of law enforcement officer, H.R. 1073, the Law Enforcement Officers Equity Act of 2007. NTEU strongly supports this bipartisan legislation introduced by Representatives Bob Filner (D-CA) and John McHugh (R-NY) which has 97 cosponsors to date. This legislation would treat CBPOs and legacy Customs and Immigration Inspectors and Canine Enforcement Officers as law enforcement officers for the purpose of 20-year retirement.

On May 11, 2007, the House of Representatives approved H.R.1684 that included Section 501, a provision that grants LEO status to CBPOs as of the creation of CBP in March 2003. CBPOs are extremely grateful for this recognition of their law enforcement activities at CBP. Unfortunately, Section 501 does not recognize previous law enforcement service in the legacy agencies that were merged to create CBP. Therefore, in order for CBPOs with legacy service to qualify for the enhanced LEO retirement benefit, they must serve an additional 20 years starting in March 2003.

The Committee is sympathetic to this unfortunate consequence of Section 501 and is working with NTEU on hybrid-LEO coverage proposals that would mitigate this result.

Section 501 is a start. It is a breakthrough in that Congress recognizes that CBPOs should have LEO coverage and NTEU members are very appreciative of the Committee's efforts.

Work Shift Schedules:

Another major factor that has hindered recruitment and retention of CBPOs is work shift determinations. In the past, the agency had the ability to determine what the shift hours will be at a particular port of entry, the number of people on the shift, and the job qualifications of the personnel on that shift. The union representing the employees had the ability to negotiate with the agency, once the shift specifications are determined, as to which eligible employees will work which shift. This was determined by such criteria as seniority, expertise, volunteers, or a number of other factors.

CBP Officers around the country have overwhelmingly supported this method for determining their work schedules for a number of reasons. One, it provides employees with a transparent and credible system for determining how they will be chosen for a shift. They may not like management's decision that they have to work the midnight shift but the process is credible and both sides can agree to its implementation. Two, it takes into consideration lifestyle issues of individual officers, such as single parents with day care needs, employees taking care of sick family members or officers who prefer to work night shifts. CBP's unilateral elimination of employee input into this type of routine workplace decision-making has had probably the most negative impact on employee morale.

A real life example of CBP's management insensitivity in scheduling work occurred recently at a large airport. Due to a mistake by management, two CBPOs who are married and have an 11 year old child were both scheduled to work during the early morning shift for the coming pay period, forcing them to scramble for child care coverage between the hours of 4:30 am and the start of school. The couple only recently

moved to the area, and did not have family nearby. When this matter was brought to management's attention, the Port Director would not take any action to help the family. Clearly, this is exactly the kind of situation that contributes to retention problems at CBP.

This is not an isolated incident. The "command and control" attitude of CBP management has created a work environment that is reflected in the dismal DHS showing in the OPM federal jobs survey.

NTEU urges the Committee to look at CBPO attrition and vacancy rates. I believe that CBPOs are quitting or retiring in large numbers due to many of the problems I have cited.

NTEU RECOMMENDATIONS

To ensure well-trained boots on the ground at the POEs, NTEU recommends the following:

1. Fill vacancies and increase CBPO staffing;
2. End the failed One Face at the Border initiative;
3. Reestablish specialization of prior CBPO functions;
4. Put into effect an in-depth on the job training plan;
5. Allot specific times during tours of duty for CBPOs to do all assigned computer-based training;
6. Structured discussion time must accompany all computer-based training;
7. Refresher courses should be available to all CBPOs upon request;
8. Repeal the DHS personnel regulations;
9. Comprehensive LEO coverage for all CBPOs and legacy inspectors; and
10. Allow employee input in shift assignment system.

CONCLUSION

CBP employees represented by NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of trade into and out of the United States. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade.

The American public expects its borders and ports be properly defended. Congress must show the public that it is serious about protecting the homeland by fully funding CBP staffing needs, extending LEO coverage to all CBPOs, ending the One Face at the Border initiative, reestablishing CBPO inspection specialization at our 327 POEs and repealing the compromised DHS personnel system.

I urge each of you to visit the land, sea and air ports of entry in your home districts. Talk to the CBPOs, canine officers, and trade entry and import specialists there to fully comprehend the jobs they do and what their work lives are like.

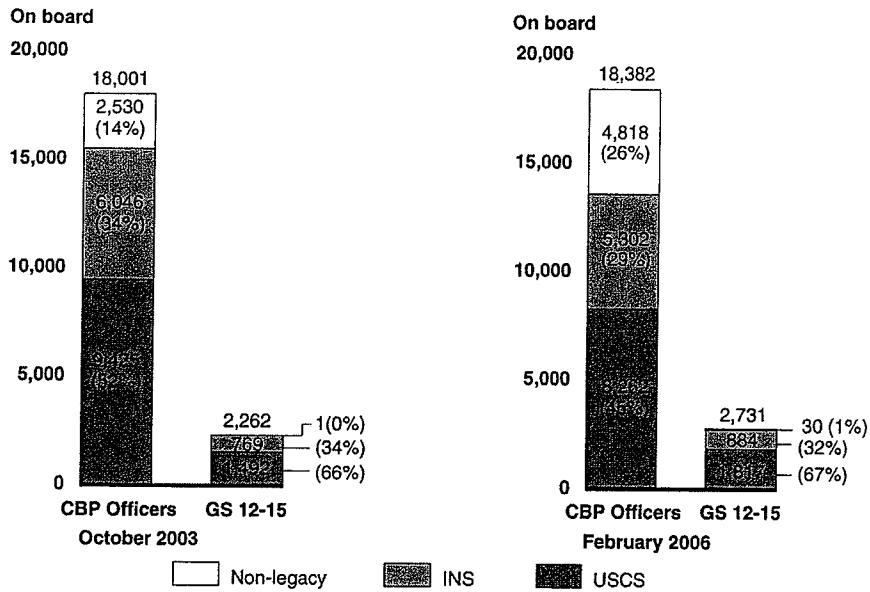
Again, I would like to thank the committee for the opportunity to be here today on behalf of the 150,000 employees represented by NTEU to discuss these extremely important federal employee issues.

Attachment 1



Background CBP Officers and Supervisors (GS12-15)

CBP Officers and GS 12-15 Supervisors On Board as of October 2003 and February 2006, by Legacy Agency



Source: GAO analysis of CBP personnel data.